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SUBJECT: TELECOM POLICY:

GOC SIGNALS A MORE PRO-COMPETITIVE STANCE

REF: (A) 02 OTTAWA 3290

(B) 02 OTTAWA 1488

1. (U) This message is sensitive, but unclassified.
Please treat accordingly.

2. (U) SUMMARY: Canada is clearly shifting its policy on telecommunications competition toward a more pro-competitive model.

-- Following extensive public hearings, in late April a key Parliamentary committee is expected to call for a sweeping re-examination of the GOC's foreign ownership restrictions in communications industries.

-- During March the Minister of Industry called on the GOC's telecom regulator to promote greater competition in local phone service. Accordingly, on April 10 the regulator issued a public notice saying that major incumbent telcos had broken various regulations in a pattern of anti-competitive conduct, and that it will undertake spot inspections to uncover and prosecute such behavior.
END SUMMARY

3. (U) BACKGROUND: Canada's communications regulatory agency is the Canadian Radio-Television and Telecommunications Commission (CRTC). The GOC's Departments of Industry (for telecoms) and Canadian Heritage (for broadcasting) determine policy. In telecoms, the shift from monopoly to competition began in the early 1990's, but progress slowed after a few years: the major incumbent firms retained dominant market shares, and newer entrants had difficulty becoming profitable. The latter complained in particular of two barriers to competition: (1) restrictions on the degree of foreign ownership of telecom carriers, and (2) the level of "contributions" which new entrants had to pay to incumbents for the use of their facilities.

4. (SBU) In January 2002, Charles Dalfen became Chairman of the CRTC. Observers have been consistently positive about the prospects for a more pro-competitive regulatory regime under Dalfen's leadership. On May 30, 2002, in a decision that made both sides about equally unhappy, the CRTC set out ground rules for competition in local telephone service (ref B). Since then, observers say, CRTC decisionmaking on telecoms has begun to move more quickly and has shown signs of becoming more favorable to smaller competitors.

5. (U) OWNERSHIP RESTRICTIONS: Foreign ownership of telecom carriers in Canada is restricted to direct ownership of no more than 20 percent of voting shares, and no more than one-third of indirect ownership, effectively limiting foreign ownership to a maximum of 46.7 percent of any carrier. U.S.-based telecom interests pressed the GOC in 1999-2001 to review these restrictions, without immediate success.

6. (SBU) In late 2002 Industry Minister Allan Rock asked the House of Commons Committee on Industry to examine this issue (ref A). Having held extensive hearings, the Committee will release its report on April 28. According to press reports and contacts, the report will take a favorable view of relaxing the restrictions. In light of the inextricable competitive links between telecommunications and other media which are outside the Committee's (and Minister Rock's) mandate, the report will advise the GOC to hold a broader review covering ownership restrictions affecting all these industries.

16. (U) LOCAL SERVICE COMPETITION: In a speech on March 26, Minister Rock said that the GOC "expects that the CRTC will continue to show its commitment to maintaining pro-competition momentum . . . (L)ocal competition is virtually non-existent in all but our largest cities. We would like to see the CRTC consider what additional measures it can take to promote competition . . . the Government of Canada will closely monitor the evolution of competition to ensure that it does not deteriorate."

17. (U) On April 10, the CRTC issued a public notice on regulatory compliance (no. 2003-4 at crtc.gc.ca) which listed a variety of known infractions of tariffs, rules and/or legislation by incumbent telecom firms. Suggesting that a complaints-based enforcement system had not been adequate, the CRTC announced that it would designate inspectors to verify compliance by conducting unannounced inspections of these firms, which could begin anytime after June 19, 2003.

18. (SBU) COMMENT: While industry observers and competitive firms received this announcement favorably, the extent to which the CRTC will follow through remains to be seen. A spokesperson for the largest incumbent, Bell Canada, was quoted arguing that determinations of past "infractions" had been based on "erroneous" information from competitors, and that it would be more accurate to say that the CRTC and incumbent firms are in "disagreement" over "complex and arcane" rules. Skeptics would note that the large incumbents have been perennially effective at winning the "regulatory affairs game" vis--vis smaller firms, mainly by casting themselves as instruments of public policy. In post's view, while Minister Rock's call for greater competition provided a short-term push, progress depends on the appetite of CRTC Chairman Dalfen for substantial change. Higher-level GOC policies, including the foreign ownership issue, will likely be hostage to the coming Liberal Party leadership transition and subsequent election, which will distract GOC ministers until sometime in 2004.

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